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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

TARCILO CALDERA,

Defendant.

No. 3-05-70302 EDL

~~[PROPOSED]~~ ORDER AND STIPULATION
WAIVING TIME UNDER RULE 5.1 AND
EXCLUDING TIME FROM JULY 29, 2005
TO AUGUST 5, 2005 FROM THE SPEEDY
TRIAL ACT CALCULATION
(18 U.S.C. § 3161(h)(8)(A))

The parties appeared before the Court on July 29, 2005. With the agreement of the parties, and with the consent of the defendant, the Court enters this order (1) scheduling a new preliminary hearing/arraignment date of August 12, 2005 at 9:30 a.m., before the Honorable Bernard Zimmerman; (2) documenting the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (3) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from July 29, 2005 to August 12, 2005. The parties agreed, and the Court found and held, as follows:

1. The defendant waived the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny both defense and government counsel reasonable time necessary for effective preparation, taking

STIPULATION AND ORDER
3-05-70302 EDL

FILED

JUL 29 2005

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 into account the exercise of due diligence, and would deny the defendant continuity of counsel.

2 2. Counsel for the defense believes that postponing the preliminary hearing is in his
3 client's best interest, and that it is not in his client's interest for the United States to indict the
4 case before the August ¹² 7, 2005 preliminary hearing date. The parties are investigating a pre-
5 indictment disposition of the case, and expect to be able to resolve the case in the near future.

6 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to
7 grant the requested continuance would unreasonably deny both government and defense counsel
8 reasonable time necessary for effective preparation, taking into account the exercise of due
9 diligence, and would deny the defendant and the government continuity of counsel.


10 4. Given these circumstances, the Court found that the ends of justice served by
11 excluding the period from July 29, 2005 to August ¹² 5, 2005, outweigh the best interest of the
12 public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

13 5. Accordingly, and with the consent of the defendant, the Court ordered that the period
14 from July 29, 2005 to August ¹² 7, 2005 be excluded from Speedy Trial Act calculations under 18
15 U.S.C. § 3161(h)(8)(A) & (B)(iv).

16 4. The Court scheduled a new preliminary hearing/arraignment date of August ¹² 7, 2005, at
17 9:30 a.m., before the Honorable Bernard Zimmerman.

18 IT IS SO STIPULATED.

19
20 DATED: 7/27/05


21 TRACIE L. BROWN
22 Assistant United States Attorney

23 DATED: 7/27/05


24 DAVID FERMINO
25 Attorney for TARCILLO CALDERA

26 IT IS SO ORDERED.

27 DATED: 7/29/05


28 HON. EDWARD M. CHEN
United States Magistrate Judge